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No. 06F-BD027-BNK

CONSENT ORDER

Petitioners.

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4. While conducting a scheduled examination of Dana Capital Group of Arizona, Inc. DBA Dana Capital Group, a licensed Arizona mortgage broker, the examiner found evidence that Dana received at least \$42,110.50 in mortgage loan origination and other settlement service fees. At least eleven (11) separate transactions involving Arizona real property closed during November, 2004 through March, 2005, specifically:

- a.) Borrowers Alan J. Holoubek and Renee Holoubek; 11/8/04, \$3,902.50
- b.) Borrowers Luis Altamirano and Emma Suarz; 12/7/04, \$3,387.00
- c.) Borrower Amer Kasm; 1/28/05, \$1,748.50
- d.) Borrower Jason K. Pierce; 3/1/05, \$3,332.00
- e.) Borrowers Jose Vitela and Blanca Canales; 1/31/05, \$3,261.00
- f.) Borrower Toledo Salvador; 1/5/05, \$5,712.50
- g.) Borrowers Edward Castillo and Maria Castillo; 12/20/04, \$4,105.00
- h.) Borrower Renee Galaz; 12/8/04, \$4,285.00
- i.) Borrower Emilio Martinez; 11/24/04, \$4,420.00
- j.) Borrower Armando Sanchez; 12/14/04, \$3,625.00
- k.) Borrowers Jesus Lopez and Lidia Lopez; 11/16/04, \$4,332.00

5. Based upon the above findings, the Department issued and served upon Dana and Mr. Smith an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order ("Cease and Desist Order") on November 30, 2005.

6. On December 29, 2005, Petitioners filed a Request For Hearing to appeal the Cease and Desist Order.

7. The Department has found no evidence that Petitioners' violations were willful or intentional.

8. Petitioners have voluntarily agreed to take corrective action and have attempted to comply with the Department's requests. However, such finding does not waive any provisions of this Consent Order.

CONCLUSIONS OF LAW

1. Pursuant to A.R.S. § 6-901 *et seq.*, the Superintendent has the authority and duty to regulate all persons engaged in the mortgage broker business and with the enforcement of statutes, rules and regulations relating to mortgage brokers.

...

2. The conduct of Dana and Mr. Smith, as alleged above, constitutes the conduct of a mortgage broker in the State of Arizona without having first applied for and obtained a mortgage broker license, in violation of A.R.S. § 6-903(A).

3. Neither Dana nor Mr. Smith meet any of the exemptions to the licensing requirements as a mortgage broker as set forth in A.R.S. § 6-902.

4. The violations set forth above constitute grounds for the issuance of an order directing Petitioners to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions, pursuant to A.R.S. § 6-137.

5. The violations set forth above constitute grounds for the imposition of a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day, pursuant to A.R.S. § 6-132.

ORDER

1. Dana and Mr. Smith shall immediately stop all mortgage broker activity in Arizona until such time as Dana and Mr. Smith have obtained a mortgage broker license from the Superintendent as prescribed by A.R.S. §6-903.

2. Dana and Mr. Smith shall immediately pay to the Department a civil money penalty in the amount of twenty-five thousand dollars (\$25,000.00). Dana and Mr. Smith are jointly and severally liable for payment of the civil money penalty.

3. The provisions of this Order shall be binding upon Petitioners, their employees, agents and other persons participating in the conduct of the affairs of Petitioners.

4. This Order shall become effective upon service, and shall remain effective and enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated or set aside.

1 5. This Consent Order, by its terms, shall not preclude Petitioners from applying to the
2 Department to acquire control of Dana Capital Group of Arizona, Inc., nor shall this Consent Order
3 constitute the Superintendent's approval of that transaction.

4 SO ORDERED this 22nd day of March, 2006.

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7 Felecia A. Rotellini
8 Superintendent of Financial Institutions

9 **CONSENT TO ENTRY OF ORDER**

10 Petitioners, without admitting or denying the Findings of Fact set forth in this Consent Order,
11 agree as follows:

12 1. Petitioners acknowledge that they have been served with a copy of the foregoing
13 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the
14 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

15 2. Petitioners admit the jurisdiction of the Superintendent and consent to the entry of the
16 foregoing Findings of Fact, Conclusions of Law, and Order.

17 3. Petitioners state that no promise of any kind or nature has been made to induce them
18 to consent to the entry of this Order, and that they have done so voluntarily.

19 4. Petitioners acknowledge that the acceptance of this Agreement by the Superintendent
20 is solely to settle this matter and does not preclude this Department, any other agency or officer of
21 this state or subdivision thereof from instituting other proceedings as may be appropriate now or in
22 the future.

23 5. Dana H. Smith, on behalf of Dana Capital Group, Inc. and himself, represents that he
24 is the President of Dana Capital Group, Inc. and that, as such, has been authorized by Dana Capital
25 Group, Inc. to consent to the entry of this Order on its behalf.

1 6. Petitioners waive all rights to seek judicial review or otherwise to challenge or contest
2 the validity of the Cease and Desist Order or Notice of Hearing.

3 DATED this 15 day of March, 2006.

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5 By: 

6 Dana H. Smith, President
Dana Capital Group, Inc.

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8 ORIGINAL of the foregoing filed this 23rd
9 day of March, 2006, in the office of:

10 Felecia A. Rotellini
11 Superintendent of Financial Institutions
12 Arizona Department of Financial Institutions
13 ATTN: June Beckwith
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

14 COPY mailed same date to:

15 Lewis D. Kowal
16 Administrative Law Judge
17 Office of the Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007

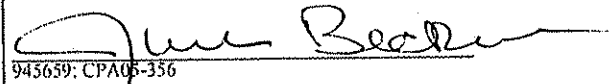
18 Craig A. Raby
19 Assistant Attorney General
20 Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

21 Robert D. Charlton, Assistant Superintendent
22 Joan S. Doran, Senior Examiner
23 Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

1 AND COPY MAILED SAME DATE by
2 Certified Mail, Return Receipt Requested, to:

3 Dana H. Smith, President
4 Dana Capital Group, Inc.
5 8001 Irvine Center Drive, Suite 1200
6 Irvine, California 92618
7 Petitioners

8 James E. Brophy, III, Esq.
9 RYLEY CARLOCK & APPLEWHITE
10 One North Central Avenue, Suite 1200
11 Phoenix, Arizona 85004-4417
12 Attorneys for Petitioners

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14 945659: CPA06-356